

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7075

BILL NUMBER: HB 1525

NOTE PREPARED: Jan 3, 2013

BILL AMENDED:

SUBJECT: Synthetic Drugs.

FIRST AUTHOR: Rep. Smith M

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes the sale of an item marked as not for human consumption a Class A infraction if the item is sold in a retail establishment for human consumption, and increases the penalty to a Class D felony for a second or subsequent violation.

The bill makes the sale of an item intended for human consumption at a retail establishment a Class A infraction if the item is not displayed or advertised. It increases the penalty to a Class D felony for a second or subsequent violation, and creates a defense for recently arrived items.

The bill provides that the sale of an undisclosed consumable item or a consumable item marked as not for human consumption is a deceptive act (permitting a civil action by the Attorney General or an individual), and permits the Department of State Revenue to revoke the seller's retail merchant certificate upon conviction.

The bill permits the Board of Pharmacy to adopt emergency rules to schedule a substance as a controlled substance if it is dangerous and has no countervailing medical benefits, and creates a standard for the board to apply in making this determination.

The bill permits a unit to adopt an ordinance imposing a fine of not more than \$10,000 for the violation of an ordinance relating to the sale of synthetic drugs, a dangerous consumable item, or an undisclosed consumable.

Effective Date: July 1, 2013.

Explanation of State Expenditures: It is unknown how many cases might occur from the subsequent violation

for selling items marked as not for human consumption for human consumption.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund. The maximum fine for a Class D felony is \$10,000, and revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed for an infraction (\$120 for a felony case), 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings on the Class D felony, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: The bill permits a unit to adopt an ordinance imposing a fine of not more than \$10,000 for the violation of an ordinance relating to the sale of synthetic drugs, a dangerous consumable item, or an undisclosed consumable. Current fine limits on ordinances is \$2,500 for the first violation and \$7,500 for second or subsequent violations.

Regarding infractions and felony cases, if additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee for an infraction (\$120 for a felony case) that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or misdemeanor are also required to pay the following fees that are deposited in local funds: the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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